

ORDER NO. 6137

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Michael Kubayanda, Chairman;
Ann C. Fisher, Vice Chairman;
Mark Acton;
Ashley E. Poling; and
Robert G. Taub

Competitive Product Prices
Priority Mail & First-Class Package Service Contract 9
(MC2016-44)
Negotiated Service Agreements

Docket No. CP2016-59

ORDER APPROVING AMENDMENT FOUR TO
PRIORITY MAIL & FIRST-CLASS PACKAGE SERVICE
NEGOTIATED SERVICE AGREEMENT

(Issued April 5, 2022)

I. INTRODUCTION

The Postal Service seeks to amend a Priority Mail & First-Class Package Service negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Amendment.

¹ USPS Notice of Amendment to Priority Mail & First-Class Package Service Contract 9, Filed Under Seal, March 25, 2022 (Notice). The amendment is an attachment to the Notice (Amendment).

II. BACKGROUND

In Order No. 2965, the Commission approved the Priority Mail & First-Class Package Service Contract 9 negotiated service agreement (Existing Agreement).² On March 25, 2022, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On March 28, 2022, the Commission issued a notice reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.³

The Postal Service intends for the Amendment to become effective one business day after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service filed supporting financial documentation and a certified statement, as required by 39 C.F.R. § 3035.105. *Id.*

III. COMMENTS

Comments were filed by the Public Representative.⁴ No other person submitted comments. The Public Representative reviewed the Amendment, the Existing Agreement, and the financial model filed under seal. PR Comments at 2. Based on that review, she concludes that the Existing Agreement, as amended, should continue to generate sufficient revenue to cover costs and satisfy 39 U.S.C. § 3633(a). *Id.* She notes that the Commission will have an opportunity to annually review the financial results for the contract. *Id.*

² See Docket Nos. MC2016-44 and CP2016-59, Order Adding Priority Mail & First-Class Package Service Contract 9 to the Competitive Product List, December 30, 2015 (Order No. 2965). The contract was later amended. See Order Approving Amendment One to Priority Mail & First-Class Package Service Negotiated Service Agreement, November 15, 2017 (Order No. 4222); Order Approving Amendment Two to Priority Mail & First-Class Package Service Negotiated Service Agreement, June 15, 2018 (Order No. 4649); Order Approving Amendment Three to Priority Mail & First-Class Package Service Negotiated Service Agreement, March 25, 2019 (Order No. 5025).

³ See Docket No. CP2016-59, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, March 28, 2022.

⁴ Public Representative Comments on Postal Service Notice of Amendment to Priority Mail & First-Class Package Service Contract 9, April 4, 2022 (PR Comments).

IV. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

Cost considerations. The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3035.105 and 3035.107. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Existing Agreement is set to expire June 30, 2022.⁵ The Amendment revises the expiration date of the contract to July 1, 2022. Notice, Attachment A at 1-2.

The Amendment revises terms relating to nonstandard length fees for Customer's Priority Mail packages. *Id.*

Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Existing Agreement, as amended, should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the Existing Agreement, as amended, is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). See

⁵ The Postal Service filed notice that the parties have mutually agreed to extend the contract until June 30, 2022, pursuant to Section III of Priority Mail & First-Class Package Service Contract 9. See USPS Notice of Extension of Priority Mail & First-Class Package Service Contract 9, March 25, 2022. See Order No. 2965 at 9 (setting original expiration date as January 3, 2019); USPS Notice of Extension of Priority Mail & First-Class Package Service Contract 9, December 27, 2018 (revising expiration date to April 3, 2019); Order No. 5025 at 4 (revising expiration date to April 1, 2022).

also 39 C.F.R. § 3035.107(c). Accordingly, a preliminary review of the Amendment indicates it is consistent with section 3633(a).

Other considerations. The Postal Service states that the Amendment shall become effective one business day after the date that the Commission completes its review. Notice at 1. The Existing Agreement, as amended, is set to expire July 1, 2022. Notice, Attachment A at 1-2.

If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Existing Agreement, as amended.

V. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the Priority Mail & First-Class Package Service Contract 9 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the revised expiration date, July 1, 2022.

By the Commission.

Erica A. Barker
Secretary